

CHAPTER NO. 397**HOUSE BILL NO. 2295****By Representative McMillan****Substituted for: Senate Bill No. 2280****By Senator Kyle**

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 11, Part 2, relative to fees for licensure of health care facilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-11-216 is amended by deleting subsections (a), (b) and (e) in their entireties and substituting instead the following new subsections (a) and (b):

(a) (1) The board is authorized to promulgate, in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, such rules and regulations as are necessary to set fees for licensure, renewal of licensure, late renewal fees and such other fees as are necessary to comply with the intent of subsection (b) of this section for the entities and facilities listed in section 68-11-202(a)(1). Such entities and facilities, except those operated by the United States government or the state of Tennessee, shall make application for licensure and renewal under this part and shall pay the fees applicable to them to the department for regulatory purposes.

(2) Provided however, the licensure and annual renewal fees for the following types of home care organizations shall not exceed 25% of the total licensure and annual renewal fees set by the board for all other home care organizations:

(A) Home care organizations that also pay a fee to be licensed by the department of mental health and developmental disabilities;

(B) Home care organizations owned and operated by therapists who pay a fee to be licensed under title 63, chapter 13 or chapter 17; or

(C) Home care organizations that are owned and controlled by another home care organization that pays an annual license or renewal fee.

(3) Excluded from payment of the fees as an ambulatory surgical treatment center and an outpatient diagnostic center are hospital based ambulatory surgical treatment centers and outpatient diagnostic centers which are included in the licensing and renewal fee of the hospital in which they are located.

(4) Prior to the promulgation of a rule increasing fees for licensed health care facilities, the department of health shall present to the board for licensing health care facilities a detailed report justifying the proposed fee amount. Such a report shall include at least the following elements:

(A) The fees currently charged, the proposed new fees, and the percentage increase expected from the proposed fees; and

(B) The total number of full-time equivalent positions funded, how those positions are funded if not entirely from fee revenue; and

(C) Justification for any increase in fees, including an itemization of actual or expected increases in costs to the board and inspection or licensure activities on which any proposed increases in funding will be spent; and

(D) A specific breakdown that differentiates the costs incurred for licensure activities under state law from any other activity required by a contractual or legal requirement with the federal government.

(5) Not later than sixty (60) calendar days prior to its presentation to the board, the report and the information outlined in subdivision (a)(4) shall be provided to the board and any provider association representing such a facility affected by a proposed change in licensure fees. The report and information shall be provided in both paper and electronic format, and shall be made available to any affected licensed facility upon request.

(6) Any increase or decrease in fees proposed or approved by the board must increase or decrease the fees for all licensed facilities by a similar percentage amount, which shall not vary more than five percent (5%) between facility types.

(b) (1) The fees established by the board shall be submitted with the appropriate applications; all fees so collected shall be deposited by the department with the state treasurer to the credit of the general fund and shall be expended by the department and included in the appropriation made for the board in the general appropriations act.

(2) It is the intent of the general assembly that the board for licensing health care facilities establish and collect fees in an amount sufficient to pay the costs of operating the board, including, but not limited to, licensure and inspection costs. On or before December 31st of each year, the commissioner shall certify and report to the government operations committee of each house and the Tennessee code commission if the board for licensing health care facilities did not, during the fiscal year, collect fees in an amount sufficient to pay the costs of operating the board. If the board fails to collect sufficient fees to pay the costs of operating the board for a period of two (2) consecutive fiscal years, the board shall be reviewed by the joint evaluation committees and shall be subject to a revised termination date of June 30 of the fiscal year immediately following the second consecutive fiscal year during which the board operated at a deficit.

SECTION 2. Tennessee Code Annotated, Section 68-11-216, is amended in subsection (c)(1) by deleting the language "set forth in" the first time it appears in that subsection and substituting instead the language "established by the board pursuant to".

SECTION 3. This act shall take effect on July 1, 2005, the public welfare requiring it.

PASSED: May 25, 2005


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 9th day of June 2005


PHIL BREDESEN, GOVERNOR